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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,641	10/17/2003	Glen T. Anderson	SC30X-US	1956
60723 7590 05/28/2010 AVON PRODUCTS, INC. AVON PLACE SUFFERN, NY 10901				
EXAMINER CHOI, FRANK I				
ART UNIT 1616		PAPER NUMBER		
NOTIFICATION DATE 05/28/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENT.DEPARTMENT@AVON.COM

Office Action Summary**Application No.**

10/688,641

Applicant(s)

ANDERSON ET AL.

Examiner

FRANK I. CHOI

Art Unit

1616

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 97/27835 in view of WO 98/51277, Chiou et al. and Shen et al..

WO 97/27835 disclose a person care composition which is used to ameliorate skin dryness, wrinkling, chapping and aging and enhance the quality and flexibility of skin (Page 1, lines 1-8, Page 3, lines 20-35, Page 4, lines 1, Page 12, lines 12-18).

WO 98/51277 disclose that compounds which act as antioxidants, have anti-inflammatory activity, and inhibit reactive oxygen species or nitric oxide, can protect skin against oxidative injury and thereby reduce skin aging and wrinkling (Page 20, lines 16-31, Page 21, lines 13-15, Page 21, lines 24-38, Page 22, lines 1-21).

Chiou et al. disclose that andrographolide is an inhibitor of nitric oxide and has anti-inflammatory activity (Page 1553).

Shen et al. disclose that andrographolide has activity against reactive oxygen species (page 314).

WO 97/27835 disclose a person care composition which is used to ameliorate skin dryness, wrinkling, chapping and aging and enhance the quality and flexibility of skin (Page 1, lines 1-8, Page 3, lines 20-35, Page 4, lines 1, Page 12, lines 12-18). The difference between WO

97/28735 and the claimed invention is that WO 97/28735 does not expressly disclose the claimed method of treating wrinkles and fine lines with a composition containing andrographolide. However, the prior art amply suggests the same as WO 98/51277 disclose that compounds which act as antioxidants, have anti-inflammatory activity, and inhibit reactive oxygen species or nitric oxide, can protect skin against oxidative injury and thereby reduce wrinkling; Chiou et al. disclose that andrographolide is an inhibitor of nitric oxide and has anti-inflammatory activity; Shen et al. disclose that andrographolide has activity against reactive oxygen species. As such, one of ordinary skill in the art would expect that the combination would be effective in treating wrinkles and fine lines, that the andrographolide compounds would be suitable for topical application to the skin in a cosmetic formulation and that due its anti-inflammatory activity via its action as a nitric oxide and reactive oxygen species inhibitor, that topical application of the same would be effective in reducing skin aging and wrinkling.

The Examiner has duly considered the Applicant's arguments but deems them unpersuasive.

The Applicant argues that one of ordinary skill in the art would not be able to predict whether andrographolide would be effective in reducing wrinkles. However, as indicated above, it is disclosed that compounds which reduce inflammation and reactive oxygen species are effective in reducing wrinkles. Obviousness does not require absolute predictability.

The Applicant's amendment of the claims to treating wrinkles and/or fine lines does not distinguish the claims from the prior art. The applicant presents no evidence that the limitation "treating" is limited to reversing of the appearance of existing wrinkles of the skin. Furthermore, the claim does not even require that the andrographolide be the agent which results in the reversing

Art Unit: 1616

of existing wrinkles of the skin. The claim as written only requires that the composition be present in effective amounts, presumed this means effective to treat wrinkles and/or fine lines. Further, the term "treatment" does not exclude inhibiting the worsening of existent wrinkles as wrinkles which are present are being treated by applying a composition to existent wrinkles. As indicated above, the product of WO 97/28735 is effective in treating wrinkling and the addition of the andrographolide would provide the added benefit of inhibiting future wrinkles as well AS inhibiting the worsening of existent wrinkles.

Therefore, the claimed invention, as a whole, would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, because every element of the invention has been collectively taught by the combined teachings of the references.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

A facsimile center has been established in Technology Center 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is 571-273-8300.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Choi whose telephone number is (571)272-0610. The Examiner maintains a flexible schedule, however, the Examiner may generally be reached Monday, Tuesday, Wednesday and Thursday, 6:00 am – 4:30 pm (EST).

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Johann R. Richter, can be reached at (571)272-0646. Additionally, Technology Center 1600's Receptionist and Customer Service can be reached at (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

Art Unit: 1616

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frank Choi
Patent Examiner
Technology Center 1600
May 26, 2010

/Johann R. Richter/
Supervisory Patent Examiner, Art Unit 1616